

Remarks

In this discussion set forth below, Applicant does not acquiesce explicitly to any rejection or averment in this Office Action unless Applicant expressly indicates otherwise.

Claims 1-20 are currently pending in the patent application. For the reasons and arguments set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

In the non-final Office Action dated April 3, 2008, the following rejections are indicated: claims 19-20 stand rejected under 35 U.S.C §101; and claims 1-20 stand rejected under 35 U.S.C. § 102(b) over the Nonaka reference (US Patent No. 6,654,949).

Regarding the 35 U.S.C §101 rejections, Applicant disagrees with and submits that the Examiner's interpretation is overly broad and improper. Notwithstanding, in an effort to facilitate prosecution, Applicant has cancelled claim 19 and amended claim 20. Claim 20 now recites a computer readable medium, which has been recognized as proper statutory subject matter. Accordingly, Applicant requests that the rejection be withdrawn.

Applicant respectfully submits that the rejection under 35 U.S.C. § 102(b) over the Nonaka reference is improper for failing to teach correspondence to each limitation. In particular, the rejection appears to rely upon a misinterpretation of teachings of the Nonaka reference that relate to the amount of data currently stored in a memory. Each of the claims includes a limitation directed to two allocations of memory. The Office Action appears to be erroneously interpreting an allocation of memory as corresponding to the amount of data currently stored in the memory. As would be understood by the skilled artisan, in view of the definition of allocation¹ and as consistent with Applicant's specification, a memory allocation refers to memory that is reserved, set apart or designated (allocating) for a purpose (e.g., for use by a certain application or module). Thus, an allocation of a memory is a reservation of memory for use rather than the actual use of the memory. Put another way, the actual amount of data currently being used is

¹ The definition of allocation is to set apart for a special purpose; designate. See webster. (n.d.). *The American Heritage® Dictionary of the English Language, Fourth Edition*. Retrieved July 01, 2008, from Dictionary.com website:
<http://dictionary.reference.com/browse/webster>

not the same as the amount of data used, which may be lower than the allocation amount. The discussion in Nonaka that is relied upon by the Office Action relates to an amount of data in a buffer. The allocation amount, although not explicitly discussed, appears to be constant. Specifically, the cited portion of Nonaka is directed to detecting an amount of data in the buffer to ascertain when the amount of buffered data falls below a threshold. As an example, Nonaka teaches at col. 6, lines 6-10 (reproduced below), that the different data levels shown in FIG. 4 represent an amount of digital data stored and not a change in allocation of memory.

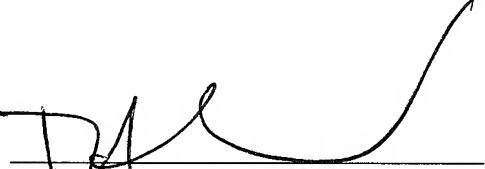
As is seen from FIG. 4, when the reproducing device of the invention outputs reproducing signals in response to an optical disk data reproduction instruction, the amount of digital data stored in the memory is varied (increased and decreased).

In another example of lack of correspondence, Applicant respectfully submits that the Office Action erroneously asserts correspondence to two different memory allocations. The Office Action cites to col. 5, lines 6-64 as corresponding to the first memory allocation. This portion of Nonaka teaches storing the received signal in memory 7. The Office Action also states, without providing a citation for support, the second memory allocation “is the microcomputer 8 receiving the signal and storing it.” Office Action at page 3. Applicant respectfully submits col. 5, lines 6-64 discuss the microcomputer 8 receiving the signal and storing it. Thus, it appears that the Office Action first provides a citation to teachings relating to reception and storage of a signal and then provides a paraphrase of the teachings of the same citation. As the process described in the citation and described in the Office Action (without a citation) are the same process, Applicant respectfully submits that they would be carried out by the same application. Accordingly, the Office Action appears to improperly rely upon a single application to show correspondence to two memory allocations and applications. For at least the aforementioned reasons, Applicant respectfully submits that the rejection is improper for failing to show correspondence to each limitation.

In view of the remarks above, Applicant believes that each of the rejections/objections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063.

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